

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4765 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? Yes

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

DHARAMARAJUSINH PARAKASHSINH JADEJA

Versus

STATE TRANSPORT EMPLOYEES CO.OPERATIVE CREDIT SOC. LTD.

Appearance:

MR HK RATHOD for Petitioner

MR YS LAKHANI for Respondent No. 1

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 30/07/98

ORAL JUDGEMENT

Rule. Mr. Y.S. Lakhani waives service of notice of Rule.

2. The petitioner has filed the present petition to challenge the order passed by the Labour Court of Rajkot in Complaint No.3/97 on 28.5.98, and also the order of termination passed on 6.6.98 by the respondent.

3. Respondent-State Transport Employees Co.op Credit Society Ltd. is registered under the Co-operative Societies Act, and it is having head office at Rajkot. The present petitioner was initially taken as a Daily-rated wager. It is claim of the petitioner that he was made permanent by the respondent vide letter dt.5.4.96. It seems that after the appointment of the present petitioner, respondent had taken a decision of having a Branch and Division office at Jamnagar and the present petitioner was to be assigned as a clerk for Jamnagar Branch. Petitioner had already raised an industrial dispute against the present respondent and he had filed a complaint bearing No.3/97 under section 33 before the Rajkot Labour Court. In the said complaint, it was contended on behalf of the respondent that the Rajkot Labour Court had no jurisdiction to entertain the said complaint as the present petitioner was working in Jamnagar, he was posted at Jamnagar Branch, and therefore only the Jamnagar Labour Court had jurisdiction to entertain the said application under section 33 of the Industrial Disputes Act.

4. It seems that the Labour Court found favour with the said contention raised by the respondent. The Labour Court had taken into consideration the facts which are brought on record namely that the petitioner was posted for Jamnagar Branch. At the time of complaint, he was working in the Jamnagar Branch, but, the Labour Court did not take into consideration the fact that the registered head office of the respondent is at Rajkot. The Labour Court had taken into consideration only the fact that in view of the petitioner working at Rajkot and he was posted at Jamnagar, the Jamnagar Labour Court had jurisdiction but the finding recorded by the Learned Labour Judge that he had no jurisdiction is totally erroneous. When the respondent has got it's head office at Rajkot, it could not be said that the Rajkot Labour Court had no jurisdiction to entertain the proceedings. Generally, a Tribunal or a Court within whose jurisdiction the respondent/defendant reside has got jurisdiction to entertain the proceedings before it. Sometime the cause of action may take place within the jurisdiction of even two courts or two tribunals. But merely because the Jamnagar Labour Court had also jurisdiction to entertain the complaint in question, it could not be said that the Rajkot Labour Court had no jurisdiction. The original Reference was filed before the Rajkot Labour Court. It must be remembered that when the original reference filed before the Rajkot Labour Court, the Rajkot Labour Court was not justified in

holding that he had no jurisdiction. Therefore, in these circumstances, I hold that the order passed by the Learned Labour Court on 28.5.98 in complaint No.3/97 deserves to be quashed and set aside. The matter will have to be remanded to the Labour Court with a direction to hear the complaint before it on merits after giving an opportunity to both the sides of being heard. I would direct the both sides to appear before the Labour Court on 24th August, 1998 in order to avoid further delay in the matter.

5. As regards the complaint raised by the petitioner under section 33 A in account of his dismissal from service the same could not be directly entertained by this court under Article 226. The petitioner will have to go before the appropriate Labour Court with the said complaint. Therefore, the said complaint regarding alleged wrongful dismissal of the petitioner is not entertained by this court. The petitioner is directed to approach the Labour Court and filed a complaint under section 33 A.

6. With these observations, I disposed of this petition with no order as to costs. Rule is made absolute in the above terms.

syed*